IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

OP.No. 35465 of 2002(V)

PETITIONER:

REGHUNATHAN NAIR, S/O. BHASKARAN PILLAI,
AGED 31, KONDOOR HOUSE, PARUMALA.

BY ADV. SRI.M.A.FIROZ
SRI.SERGI JOSEPH THOMAS

RESPONDENTS:

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1. THE DIRECTOR, MINING AND GEOLOGY,
PATTOM, THIRUVANANTHAPURAM.

2. THE GEOLOGIST, MINING & GEOLOGY
DEPARTMENT, PATHANAMTHITTA.

3. THE REVENUE DIVISIONAL OFFICER,
THIRUVALLA.

4. THE VILLAGE OFFICER, KADAPRA.

BY GOVERNMENT PLEADER SRIL NOBLE MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF ORDER DT. 18-9-2002.

EXT.P2 NOTICE DT. 24-10-2002

EXT.P3 ORDER DT. 3-10-2002 IN I.A.2275/02 IN O.S.NO. 517/20.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 35465 of 1998

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Dated this, the 10th January, 2007.

J U D G M E N T

In this original petition, the petitioner is challenging Exts. P1 and P2 orders passed by the Revenue Divisional Officer under Rule 58 (2) of the Kerala Minor Mineral Concession Rules, 1967 demanding royalty and imposing fine on the petitioner. In O.P. No. 30838/2002, I had held that the power to demand royalty and impose fine under Rule 58(2) rests exclusively with the Government and no orders delegating that power to the RDO has been passed by the Government. In that view, I had held that the RDO has no jurisdiction to pass orders under Rule 58(2) of the Rules under which the real power rests exclusively with the Government. That being so, I quash Exts. P1 and P2. However, this shall not preclude the appropriate authority from taking appropriate action in accordance with law, if so warranted The amounts deposited pursuant to the interim orders in this original petition shall be refunded to the petitioner within two months from the date of receipt of a copy of this judgment. The original petition is disposed of as above.

Sd/- S. Siri Jagan, Judge.

Tds/

S. Siri Jagan, J.

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O.P. No. 35465 of 1998

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J U D G M E N T

10th January, 2007.